

"(b3) Notwithstanding the terms of any franchise or other agreement, or the terms of any program, policy, or procedure of any manufacturer, it shall be unlawful for a manufacturer to take or threaten to take any adverse action against a dealer located in this State, or to otherwise discriminate against any dealer located in this State, on the basis that the dealer sold or leased a motor vehicle to a customer who either exported the vehicle to a foreign country or who resold the vehicle to a third party, unless the dealer knew or reasonably should have known that the customer intended to export or resell the motor vehicle prior to the customer's purchase of the vehicle from the dealer. The conduct prohibited under this subsection includes, but is not limited to, a manufacturer's actual or threatened: (i) failure or refusal to allocate, sell, or deliver motor vehicles to the dealer; or (ii) discrimination against any dealer in the allocation of vehicles; or (iii) charging back or withholding payments or other compensation or consideration for which a dealer is otherwise eligible for warranty reimbursement or under a sales promotion, incentive program, or contest; or (iv) disqualification of a dealer from participating in or discrimination against any dealer relating to any sales promotion, incentive program, or contest; or (v) termination of a franchise. In any proceeding brought pursuant to this subsection, there shall be a rebuttable presumption that the dealer, prior to the customer's purchase of the vehicle, did not know nor should have reasonably known that the customer intended to export or resell the motor vehicle, if (i) following the sale, the vehicle is titled, registered, and, where applicable, taxes paid in any state or territory within the United States in the name of a customer who was physically present at the dealership at or prior to the time of sale, and (ii) the dealer did not know, prior to the consummation of the sale, that the vehicle would be shipped to a foreign country."

SECTION 4. G.S. 20-305.1 is amended by adding a new subsection to read:

"(f1) The provisions of subsections (a), (b), (b1), (b2), and (c) of this section applicable to a motor vehicle manufacturer shall also apply to a component parts manufacturer. For purposes of this section, a component parts manufacturer means a person, resident, or nonresident of this State who manufactures or assembles new motor vehicle "component parts" and directly warrants the component parts to the consumer. For purposes of this section, component parts means an engine, power train, rear axle, or other part of a motor vehicle that is not warranted by the final manufacturer of the motor vehicle."

SECTION 5. G.S. 20-305(6) reads as rewritten:

"§ 20-305. Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them:

- ...
- (6) Notwithstanding the terms, provisions or conditions of any franchise or notwithstanding the terms or provisions of any waiver, to terminate, cancel or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has satisfied the notice requirements of subparagraph c. and the Commissioner has determined, if requested in writing by the dealer within (i) the time period specified in G.S. 20-305(6)c.1.II., III., or IV., as applicable, or (ii) the effective date of the franchise termination specified or proposed by the manufacturer in the notice of termination, whichever period of time is longer, and after a hearing on the matter, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith as defined in this act regarding the termination, cancellation or nonrenewal. When such a petition is made to the Commissioner by a dealer for determination as to the existence of good cause and good faith for the termination, cancellation or nonrenewal of a franchise, the Commissioner shall promptly inform the manufacturer that a timely petition has been filed,